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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.      | CONFIRMATION NO.       |
|--|-------------|----------------------|--------------------------|------------------------|
| 10/519,460   | 12/29/2004  | Laurent Brunel       | 0521-1024                | 2667                   |
| 466 7590 05/02/2007<br>YOUNG & THOMPSON<br>745 SOUTH 23RD STREET<br>2ND FLOOR<br>ARLINGTON, VA 22202 |             |                      | EXAMINER<br>NGUYEN, TU T |                        |
|  |             |                      | ART UNIT<br>2886         | PAPER NUMBER           |
|  |             |                      | MAIL DATE<br>05/02/2007  | DELIVERY MODE<br>PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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**Office Action Summary**

Application No.

10/519,460

Applicant(s)

BRUNEL, LAURENT

Examiner

Tu T. Nguyen

Art Unit

2886

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 February 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 and 19-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17 and 19-30 is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 February 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments, filed on 02/01/2007, with respect to 112 Rejection have been fully considered and are persuasive. The office action mailed on 11/01/2006 has been withdrawn.

### *Claim Rejections - 35 USC § 101*

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

To meet the requirements of 35 U.S.C. §101, "(t)he claimed invention as a whole must accomplish a practical application. That is, it must produce a useful, concrete and tangible result." M.P.E.P. § 2106(II)(A) (quoting *State Street Bank & Trust v. Signature Financial Group, Inc.*, 149 F.3d 1368, 1373, 47 USPQ2d 1596, 1601 (Fed. Cir. 1998)).

Claims 1-16 appear to be an abstract idea rather than a practical application of the idea. Claims 1-16 do not result in a physical transformation nor does it appear to provide a useful, concrete and tangible result. Therefore, claims 1-16 appear non-statutory.

The claims are directed to a judicial exception; as such, pursuant to the Interim Guidelines on Patent Eligible Subject Matter (MPEP 2106)), the claims must have either

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physical transformation and/or a useful, concrete and **tangible result**. The claims fail to include transformation from one physical state to another. Although, the claims appear useful and concrete, there does not appear to be a tangible result claimed. Merely measuring at least one spatial sample would not appear to be sufficient to constitute a tangible result, since the outcome of the measuring at least one spatial sample step has not been used in a disclosed practical application nor made available in such a manner that its usefulness in a disclosed practical application can be realized. As such, the subject matter of the claims is not patent eligible.

#### ***Allowable Subject Matter***

Claims 17,19-30 are allowed.

With respect to claim 17, the cited references of record do not disclose or render obvious means for emitting, towards said wall, a light radiation which is able to traverse the wall and to reach said dispersed medium, so that the latter can emit in turn, through said wall, a plurality of backscattered light rays with the aim of forming a backscattering spot in which at least one central zone in the form of a disc is defined, the centre of which corresponds to the luminous barycentre of the backscattering spot and the radius of which is equal to four times the maximum free transport length of said dispersed medium, said backscattering spot being able to be imaged at least in part on said receiving means, means for receiving light radiation backscattered by said dispersed medium through said wall and intended to form said backscattering spot, said receiving means covering at least one direction extending from the luminous barycentre of said

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spot, means for suppressing, from light rays backscattered by said dispersed medium, light rays which have emanated from said central zone and have undergone a total reflection on the surface forming the interface of said wall with said second side, in combination with the rest of limitations of the claim, which structurally arranged and functionally operated as claimed in claim 17.

Claim 1 would be allowable if Applicant amends the claim to overcome the rejection discussed above.

With respect to claim 1, the cited references of record do not disclose or render obvious the steps of emitting said plurality of light rays in the direction of said dispersed medium and through said wall so that said dispersed medium is able to emit in turn, through said wall, a plurality of backscattered light rays with the aim of forming a backscattering spot in which at least one central zone in the form of a disc is defined, the centre of which corresponds to the luminous barycentre of the backscattering spot and the radius of which is equal to four times the maximum free transport length of said dispersed medium, said backscattering spot (19) being able to be imaged at least in part on said receiving means (17); forming said backscattering spot from backscattered light rays which have traversed said wall and, at least according to a direction extending from the luminous barycentre of said backscattering spot, are free of light rays which have emanated from said central zone and have undergone a total reflection on the surface forming the interface of said wall with said second side, in combination with the

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rest of steps of the claim, which structurally arranged and functionally operated as claimed in claim 1.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu T. Nguyen whose telephone number is (571) 272-2424. The examiner can normally be reached on T-F 7:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tarifur Chowdhury can be reached on (571) 272-2800 Ext. 86. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Tu T. Nguyen  
Primary Examiner  
Art Unit 2886

04/28/2007